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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/970,559	10/03/2001	E. Marlowe Goble	GOBLE-1	1489
7590 04/02/2004				
Pandiscio & Pandiscio 470 Totten Pond Road Waltham, MA 02451-1941		EXAMINER BLANCO, JAVIER G		
		ART UNIT PAPER NUMBER		
		3738 /1		
DATE MAILED: 04/02/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/970,559

Applicant(s)

GOBLE, E. MARLOWE

Examiner

Javier G. Blanco

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) 1 and 3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2 and 4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. This application has been filed with informal drawings, which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 2 and 4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Goble et al. (US 5,702,397 A).

As seen in Figures 6-8 and 25-26, Goble et al. disclose an apparatus for reconstructing a ligament (see column 12, line 43 to column 13, line 32), said apparatus comprising:

- a. A bone fixation element (anchor 150 having a cylindrical body 151) having a distal end (distal end 153), a proximal end (proximal end 154), and a central bore (proximal cavity 156 + distal passage 157), said central bore having a first diameter (see diameter of distal passage 157), and said bone fixation element being adapted for positioning in a bone tunnel (see Figures 6-8: femoral tunnel 11);
- b. A flexible filament (suture(s) 27) having a distal end and a proximal end, said distal end having retaining means (= loop(s)) for holding a graft ligament (see Figures 6-8: ligament graft 15), and said flexible filament having a second diameter smaller than said first diameter so as to

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allow said flexible filament to slidingly pass through said central bore of said bone fixation element (see Figures 6-8 and 25-26); and

c. A crimp (a collet having halves 158a, 158b) configured for attachment to said flexible filament, said crimp having at least one given cross-sectional width (either the distal end of the collet, or, the proximal end of the collet) being greater than said first diameter (= diameter of distal passage 157), whereby said crimp is fixedly positionable to said flexible filament adjacent to said proximal end of said bone fixation element (see Figure 25) so as to prevent distal movement of said flexible filament relative to said bone fixation element and hence prevent distal movement of said graft ligament in the bone tunnel (see column 12, line 43 to column 13, line 32). The method for securing a flexible filament is disclosed/described in columns 9 and 10.

Figure 25 of Goble et al. '397 is attached below:

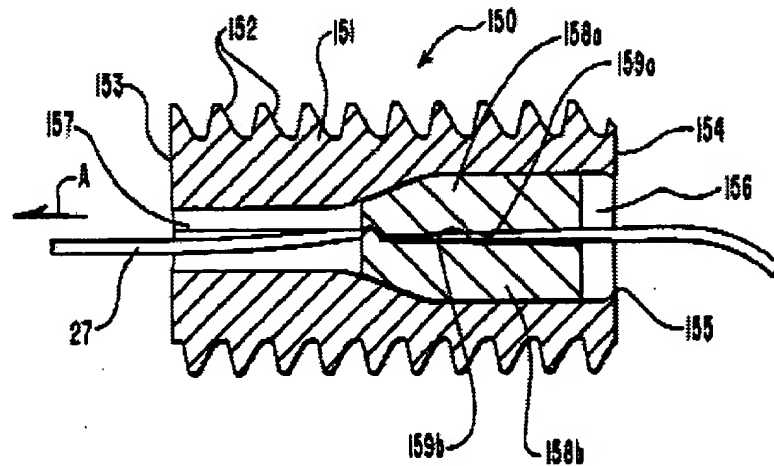


FIG. 25

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Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Chervitz et al. (US 6,283,996 B1).

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

In regard to the previous versions of claims 2 and 4 (Amendment A; filed April 14, 2003), the Examiner had been required to "consider the subject matter added to the claim in making rejections based on prior art" (see MPEP 2163.06), even though said subject matter was deemed to be new matter by the Examiner. Therefore, the broadening of said claims necessitated the new grounds of rejection.

6. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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7. This application contains claims 1 and 3 drawn to an invention nonelected with traverse in Paper No. 7. A complete reply to the final rejection must include cancelation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Javier G. Blanco whose telephone number is 703-605-4259. The examiner can normally be reached on M-F (7:30 a.m.-4:00 p.m.), first Friday of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 703-308-2111. The fax phone numbers for the organization where this application or proceeding is assigned is 703-872-9306 for regular communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

JGB

March 9, 2004



David H. Willse
Primary Examiner